

Message

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**Sent:** 9/13/2016 7:42:34  
AM  
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**Subject:** 3 Legal Attacks The ENVIRONMENTAL  
Cross-State Air  
Pollution Rule May  
Face



Tuesday, September 13, 2016



## TOP NEWS

### Exxon Can't Dodge Calif. Superfund Cleanup Suit

A California federal judge refused Friday to toss a suit by a slew of defense, health care and media companies against Exxon Mobil Corp. for the costs associated with cleanup of decades of contamination at a Central California Superfund site.

### Feds Reach Deal To Protect Sea Turtles From Shrimpers

A D.C. federal judge on Friday stayed a lawsuit filed by a conservation group accusing the U.S. Department of Commerce of not doing enough to protect endangered sea turtles from shrimp fishing operations off the southeastern U.S. coast, after the government agreed to propose a rule to help fix the problem.

### Lockheed Says Negligence Not A Defense In Cleanup Suit

Lockheed Martin asked a New York federal judge on Friday to rule that Glencore Ltd. can't wriggle out of paying millions of dollars for environmental cleanup from a shuttered alumina refinery in the U.S. Virgin Islands by claiming Lockheed Martin was negligent in building or operating the facility, saying negligence isn't a factor in determining liability.

### Tribe Asks DC Circ. To Halt Dakota Pipeline Work

The Standing Rock Sioux Tribe urged the D.C. Circuit in an emergency motion Monday to block construction on the Dakota Access Pipeline within 20 miles of a Missouri River crossing where protesters have clashed with pipeline workers and security, saying an injunction is necessary to prevent more destruction of sacred sites while the tribe appeals an order allowing construction to proceed.

### Fresno Brought On Lead-Polluted Water, Suit Says

A proposed class of residents in northeast Fresno hit the city and two water-meter installation contractors with a lawsuit Friday, alleging residents

## LAW FIRMS

Akin Gump  
Ballard Spahr  
Bancroft PLLC  
Beveridge & Diamond  
Bienstock & Michael  
Boucher LLP  
Bull Housser  
Cleary Gottlieb  
Crowell & Moring  
Curtin & Heefner  
Curtis Mallet-Prevost  
Day Pitney  
Demetriou Del Guercio  
Earthjustice  
Fredericks Peebles  
Greenberg Traurig  
Hogan Lovells  
Holland & Hart  
Holland & Knight  
King & Spalding  
Kirkland & Ellis  
McCarter & English  
Norton Rose Fulbright  
Nossaman LLP  
Paul Weiss  
Perkins Coie

have had to deal with discolored and lead-contaminated water since the city changed its water source without the proper treatments in place.

## ANALYSIS

### 3 Legal Attacks The Cross-State Air Pollution Rule May Face

The U.S. Environmental Protection Agency has bragged that its revised cross-state air pollution rule will help cut summertime nitrogen oxide emissions from power plants by 20 percent over last year's levels, but the rule — which has already been up to the U.S. Supreme Court once — is likely not out of the legal woods yet, experts say. Here, Law360 identifies three parts of the rule that could spark legal challenges from environmental groups, states and industry parties.

### Tribes May Have More Say In Projects After Dakota Pipeline

The Obama administration's recent construction freeze on part of the controversial Dakota Access pipeline and promise to rethink how Native American tribes are consulted may lead to tribes getting not only more opportunity to voice concerns but also the power to determine how, or even if, infrastructure projects affecting their rights are allowed to proceed.

## POLICY & REGULATION

### Senate's \$9.4B Water Resources Bill Clears Hurdle

The Senate pushed a bill Monday to authorize more than \$9.4 billion in water infrastructure projects, including harbor dredging and aid for lead-contaminated water in Flint, Michigan, after the measure cleared a procedural hurdle.

### DOE, DOI Release Plan To Grow Offshore Wind Power In US

The U.S. departments of Energy and Interior on Friday unveiled a collaborative plan to coax further development of offshore wind power, claiming steps taken to lower project development and electricity costs could result in as much as 86 gigawatts of U.S. offshore wind power by the year 2050.

### India Moves To Sink US Green Energy Initiatives At WTO

India's tussle with the U.S. over clean energy policy at the World Trade Organization has grown more acrimonious as New Delhi filed a dispute over subsidies and local content requirements in eight U.S. states, alleging that the programs have flouted international rules, the WTO said Monday.

### Calif. Rep. Floats Pechanga Band Water Rights Pact Bill

A California lawmaker on Friday introduced a bill that would ratify a settlement between the Pechanga Band of Luiseno Indians, the state, the federal government and certain local water districts, setting out the tribe's long-disputed water rights in the Santa Margarita River Watershed.

## ENFORCEMENT

### EPA Finalizes \$8.7M Cleanup Near Former NJ Pesticide Plant

The U.S. Environmental Protection Agency on Monday announced it will spend \$8.7 million to clean up contaminated soil at homes in Vineland, New Jersey, near a now-defunct factory that manufactured pesticides and left trails of arsenic and lead.

Proskauer Rose  
Quarles & Brady  
Quinn Emanuel  
Robins Kaplan  
Scarinci Hollenbeck  
Schulte Roth  
Schwartz Simon  
Sheppard Mullin  
Sidley Austin  
Simpson Thacher  
Skadden  
Squire Patton Boggs  
Stoel Rives  
Western Environmental Law  
Center  
Williams Cuker  
Winston & Strawn  
Wood Smith  
Yarmuth Wilsdon

## COMPANIES

AAR Corporation  
Alcoa Inc.  
Association of American Railroads  
BNSF Railway  
Bank of America Corporation  
Center for Biological Diversity Inc.  
Delaware Riverkeeper Network  
Enbridge  
Energy Transfer Partners, L.P.  
Exxon Mobil Corporation  
Facebook  
Hobby Lobby Stores  
Hovensa LLC  
International Business Machines  
Corporation  
John Hancock Financial  
KPMG International  
Kirkland's, Inc.  
Lockheed Martin  
NBCUniversal Inc.  
NFL Enterprises LLC  
Natural Resources Defense  
Council  
New England Patriots  
Oceana Inc.  
Raytheon Company  
Sierra Club

## LITIGATION

### Judge Likely To Tweak Ruling Voiding Alaska Mining Permits

An Alaska federal judge agreed on Monday to stay judgment on a decision that sided with environmental groups and an Alaska Native village by throwing out a coal company's surface mining permits, saying there is high likelihood she will rethink part of the ruling.

### TVA Must Face Enviros' Coal Ash Pollution Suit, Judge Says

A Tennessee federal judge on Friday refused to dismiss a water pollution lawsuit brought against Tennessee Valley Authority over its coal ash disposal at a coal-fired power plant near Gallatin, Tennessee, finding TVA wasn't entitled to sovereign immunity, or that the claims were duplicative of a separate lawsuit brought by the state.

### Enviros, EPA Move To Dismiss Suit Over Aircraft Emissions

Environmental groups and the U.S. Environmental Protection Agency asked a federal judge on Friday to toss a lawsuit the groups brought to force the agency to promulgate long-awaited carbon emissions standards for aircraft, less than two months after the EPA's final finding that greenhouse gas emissions from aircraft are harmful to humans.

### BNSF Blasts Enviros' CWA Claims In Coal Dust Suit

BNSF Railway Co. on Friday told a federal court that the Sierra Club and other environmental groups don't have enough broad evidence to support their Clean Water Act claims in their suit alleging coal dust regularly flies off trains and into Washington waterways, the same day the groups asked the court to find the railroad liable for CWA violations.

### Tribes Seek To Nix Row Over Work On Pipelines Under Lake

Three Affiliated Tribes officials continued to press a North Dakota federal judge on Friday to toss an energy company's lawsuit seeking permission to complete construction on a pair of pipelines underneath a lake on the tribes' reservation.

### Enviros Can Intervene In Del. River Fracking Suit

The Delaware Riverkeeper Network can intervene in a lawsuit brought by a landowner challenging the Delaware River Basin Commission's fracking moratorium and refusal to approve an exploratory natural gas well, a Pennsylvania federal judge said Monday.

## DEALS

### Quantum Injects \$305M Into SolarCity Projects

An affiliate of private investment vehicle Quantum Strategic Partners Ltd. has agreed to invest \$305 million in SolarCity Corp.'s residential, commercial and industrial solar power projects, marking the second cash equity transaction inked by the solar panel manufacturer in company history, SolarCity said Monday.

## EXPERT ANALYSIS

### An End-Of-Summer Push On Environmental Mitigation Policy

The final week of August saw several important developments in what is proving to be a very consequential year for federal environmental mitigation

SolarCity Corp.

Soros Fund Management LLC

Southern Environmental Law Center

Talen Energy Corp.

Tesla Motors Inc.

Twitter Inc.

Zeughauser Group LLC

## GOVERNMENT AGENCIES

Army Corps of Engineers

Bureau of Indian Affairs

Cheyenne River Sioux Tribe

Chickaloon Native Village

Council on Environmental Quality

Delaware River Basin

Commission

Department of Commerce

Equal Employment Opportunity Commission

Executive Office of the President

Federal Aviation Administration

Federal Emergency Management Agency

Federal Trade Commission

Fish and Wildlife Service

National Aeronautics and Space Administration

National Institutes of Health

National Marine Fisheries Service

National Oceanic and Atmospheric Administration

Office of Surface Mining Reclamation and Enforcement

Pechanga Band of Luiseno Indians

Securities and Exchange Commission

Standing Rock Sioux Tribe

Surface Transportation Board

Tennessee Valley Authority

Three Affiliated Tribes of the Fort Berthold Reservation

U.S. Army

U.S. Department of Agriculture

U.S. Department of Energy

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of the Interior

policy. Thomas Jensen and Sandra Snodgrass of Holland & Hart LLP highlight key features and implications of each new development.

### **The Right Side Of History: Obama's Administration And DAPL**

After the District of Columbia denied the Standing Rock Sioux Tribe's request for an injunction against the controversial Dakota Access Pipeline, the Obama administration sided with the tribe. However, this lawsuit may just be the opening salvo in a much larger battle for tribal rights, says Professor Matthew Fletcher of Michigan State University College of Law.

### **From The Partner's Desk: Paving Your Path To Partnership**

One of the most oft-cited complaints from associates is the lack of clarity around what it takes to make partner. While this can certainly be laid at the feet of law firms large and small alike, an ever-changing business environment is at least partly to blame. Today, law firms are not making partnership decisions based on the same criteria they used 20, 15 or even 10 years ago, says Gary Gansle of Squire Patton Boggs LLP.

## **LEGAL INDUSTRY**

### **Kirkland Chasing Prestige Of Rivals With Bancroft Power Play**

Kirkland & Ellis LLP's hire of Paul Clement and the entire Bancroft PLLC legal team, announced Monday, creates one of the most formidable appellate practices in the U.S., but experts say the move may also be driven by forces outside a desire to dominate at the Supreme Court.

### **Paul Clement, Bancroft Firm To Join Kirkland & Ellis**

Kirkland & Ellis LLP has snapped up the entire 17-attorney team at renowned appellate firm Bancroft PLLC, home to former solicitor general and prolific U.S. Supreme Court litigator Paul D. Clement, Kirkland & Ellis said Monday.

### **How Paul Clement Ended Up At Kirkland**

Widely considered one of the elite advocates of the U.S. Supreme Court, Paul Clement's legal education hasn't been so single-minded. Along with his law degree, Clement studied economics and has held a handful of private and public-sector jobs on his way to Kirkland & Ellis LLP this week.

### **Cybersecurity Becoming Big Issue For GCs, Report Says**

General counsel at firms around the world have seen their responsibilities grow over the years, and a Monday report finds that such is only going to increase as issues ranging from cybersecurity to social media risks come more and more under their purview.

### **Norton Rose Boosts Canadian Presence With Firm Takeover**

Global law firm Norton Rose Fulbright established a new presence on the west coast of Canada, seeking to enter the country's fastest growing economy by combining with British Columbia-based Bull Housser & Tupper LLP, the firm announced in a statement on Monday.

### **Cleary Gottlieb Taps Longtime Partner As New Leader**

Cleary Gottlieb Steen & Hamilton LLP on Monday announced that longtime financial investments partner Michael Gerstenzang will become the firm's

U.S. Environmental Protection  
Agency  
U.S. House of Representatives  
U.S. Senate  
U.S. Supreme Court  
Western Area Power  
Administration

new managing partner next year, as veteran antitrust partner Mark Leddy is set to leave the position.

#### 4 Practice Areas Where NJ Firms Are Hiring

Real estate has emerged as one of the busiest practice areas in which New Jersey law firms are hiring as the state continues its climb out of the recession, while intellectual property and corporate compliance have also found themselves in high demand in the wake of regulatory updates and landmark court rulings. Here are the sectors experts view as hotbeds of employment opportunities for attorneys who want to work in New Jersey.

#### Pro Bono Firm of 2016: Akin Gump

Lobbying for millions of dollars in childhood cancer research, fighting to hold Bolivian officials responsible for human rights violations and working to restore a deaf man's dignity after he was wrongfully jailed for weeks have earned Akin Gump a spot as one of Law360's Pro Bono Firms of 2016.

#### Rainmaker Q&A: Quarles & Brady's Stephanie Quincy

Not every client will be a fit or a "win." Instead of focusing on just our wins or (perceived) losses, I always step back and look at the bigger picture. Oftentimes what I learn from a loss is far greater than from even the biggest of wins, says Stephanie Quincy, a partner in Quarles & Brady LLP's labor and employment group.

#### Rainmaker Q&A: Schulte Roth's David Nissenbaum

It doesn't matter whether or not you play golf. Work hard every day of your career to establish a solid foundation of legal and business knowledge. You can't succeed at rainmaking over the long term unless you really know your stuff, says David Nissenbaum, a partner at Schulte Roth & Zabel LLP.

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